

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FEDERAL TRADE COMMISSION,

2:11-CV-283 JCM (GWF)

Plaintiff,

V.

IVY CAPITAL, INC., et al.,

Defendants.

ORDER

Presently before the court is defendants Enrich Wealth Group, LLC's and Joshua F. Wickman's motion to strike portions of the declaration of Sheryl Novick. (Doc. #39). The plaintiff has responded (doc. #147), but no reply has been filed.

In the motion, defendants request that the court strike portions of Novick's declaration because it summarizes "numerous hearsay statements, anonymous blog postings and other unverifiable documents. . ." (Doc. #39 at 2:2-3). Defendants contend that the government may not rely on hearsay statements in establishing common enterprise or conspiracy, citing *United States v. Casas*, 356 F.3d 104, 119 (1st Cir. 2004).

22 As the plaintiff notes in its response brief, this motion is moot following the court's issuance
23 of the preliminary injunction subsequent to its submission. Additionally, the court agrees with the
24 plaintiff that the motion has no merit, as the Ninth Circuit has held that a court may consider hearsay
25 in deciding whether to issue a preliminary injunction. *Johnson v. Couturier*, 572 F.3d 1067, 1083
26 (9th Cir. 2009).

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the defendants' motion to strike (doc. #39) is DENIED.

DATED May 2, 2011.

James C. Mahan
UNITED STATES DISTRICT JUDGE